IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4471 OF 2003

Chandrakant P. Choudhary .... Petitioner

versus

The State of Maharashtra & ors. ... Respondents.

Shri c.G.Gavnekar with Gautam Hiranandani and Ms.
D.Chavan for the petitioner.
Shri C.R.Sonawane AGP for Respondents 1 to 5.
None for Respondent no.6.

CORAM; V.G. PALSHIKAR &
V.R. KINGAONKAR, JJ.

DATED; 10TH APRIL, 2006.

P.C:

1. By this petition, the petitioner has challenged the order passed by the Maharashtra Administrative Tribunal challenging the termination of service of the petitioner. The basic contentions raised before the Tribunal was that the report of the enquiry officer was not given to the delinquent though the requirement of law is that such report must be supplied to the delinquent. Since this illegality was substantial in nature the Tribunal set aside the order of termination and directed re-instatement of the petitioner. However, while so doing, the Tribunal did not grant backwages to the petitioner, nor did it assign any

reason why in the face of Maharashtra Civil Services Rules, they though it proper to deny back wages. In our opinion, the Maharashtra Administrative Tribunal being a fact finding authority and the first court it is necessary that this aspect of the rules pertaining to the grant of backwages on reinstatement of the Government employee, requires proper consideration and reasoned finding by the Tribunal. The Tribunal has in this case failed to exercise its jurisidiction in this regard and therefore we, in exercise of our power under Article 227 of the Constitution, set aside the impugned order and remit back the matter to the Tribunal for deciding the question of grant of backwages, following the re-instatement as earlier ordered by it. The Truibunal shall take into consideration the relevant law applicable in the present case and decide the question accordingly. The matter is therefore remitted back to the Tribunal only to the extent of payment of backwages. The order of the Tribunal directing reinstatement is confirmed. The tribunal as far as possible decide the matter in three months time.

Petition accordingly disposed of.

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